

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: General Services

AGENDA DATE: August 27, 2013

CONTACT PERSON/PHONE: Stuart C. Ed, General Services Director, 621-6822
Bruce D. Collins, Purchasing Manager, 541-4313

DISTRICT (S) AFFECTED: All

SUBJECT:

That the City Manager be authorized to sign Consent to Assignment of Contract from Tom Growney Equipment, Inc. (Assignor) to 4 Rivers Equipment, LLC (Assignee) with respect to the City of El Paso's Contract No. 2009-185 (John Deere Proprietary Parts and Services).

BACKGROUND / DISCUSSION:

4 Rivers Equipment, LLC recently purchased Tom Growney Equipment, Inc. 4 Rivers Equipment, Inc. has agreed to terms and conditions of contract 2009-185.

SELECTION SUMMARY:

This is a Sole Source Consent to Assignment.

PRIOR COUNCIL ACTION:

Council awarded Contract No. 2009-185 (John Deere Proprietary Parts and Service) on April 10, 2012.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: _____

Name

Signature

Date

**COUNCIL PROJECT FORM
(RESOLUTION)**

*******POSTING LANGUAGE BELOW*******

Please place the following item on the **CONSENT** agenda under **RESOLUTIONS** for the Council Meeting of **AUGUST 27, 2013.**

That the City Manager be authorized to sign Consent to Assignment of Contract from Tom Growney Equipment, Inc. (Assignor) to 4 Rivers Equipment, LLC (Assignee) with respect to the City of El Paso's Contract No. 2009-185 (John Deere Proprietary Parts and Services).

Department: General Services
Districts(s): ALL

*******ADDITIONAL INFO BELOW*******

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Manager be authorized to sign Consent to Assignment of Contract from Tom Growney Equipment, Inc. (Assignor) to 4 Rivers Equipment, LLC. ("Assignee") with respect to the City of El Paso's Contract No. 2009-185 (John Deere proprietary parts and services).

PASSED AND APPROVED this ____ day of _____ 2013.

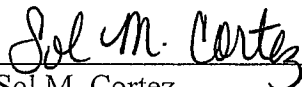
CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:


Richarda D. Momsen
City Clerk

APPROVED AS TO FORM:



Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:



Bruce D. Collins, Purchasing Manager
Department of Financial Services

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**CONSENT TO ASSIGNMENT OF
CONTRACT NO. 2009-185**

This Consent to Assignment is executed this _____ day of _____, 2013,
by and between the City of El Paso (the "City"), Tom Growney Equipment, Inc. ("Assignor") and
4 Rivers Equipment, LLC. ("Assignee").

WHEREAS, on April 10, 2012, the City entered into Contract No.2009-185 with Assignor,
the sole source provider of John Deere proprietary parts and services for a term of thirty-six (36)
months, which is fully incorporated herein by reference (the "Contract") to provide such goods to
the City;

WHEREAS, after entering into said Contract, the assets of Assignor related to the sale of
John Deere proprietary parts and services were sold to Assignee;

WHEREAS, the Contracts provides that it is not assignable without the consent of the City;

WHEREAS, Assignor has requested that the City approve an assignment of the Contract to
Assignee;

WHEREAS, Assignee has agreed to be responsible for all duties and obligations under the
Contract; and

WHEREAS, the Assignee has provided a sole source affidavit to the City stating they are
the sole provider of John Deere proprietary parts and service; and

WHEREAS, the City agrees to the assignment of all rights, duties and obligations
encompassed in the Contract to Assignee.

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

1. The City consents to the assignment of the rights, duties and obligations under Contract No. 2009-185 to Assignee.
2. Assignee agrees to assume and perform all duties, obligations and responsibilities under Contract No. 2009-185.
3. All terms and conditions of Contract No. 2009-185 shall remain in full force and effect and the Assignee shall provide the City with a sole source justification letter each year of the term of the Contract.
4. **Assignee agrees to indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, court costs, expenses, and attorney's fees which are connected with or arise from the assignment of these Contract or the City's acceptance and recognition of the assignment of Contract No. 2009-185.**

(Signature Page to follow)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONSENT TO ASSIGNMENT OF
CONTRACT NO. 2009-185

(Signature Page)

EXECUTED this the _____ day of _____, 2013

THE CITY OF EL PASO

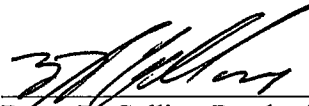
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



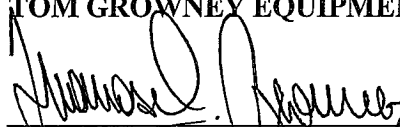
Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:



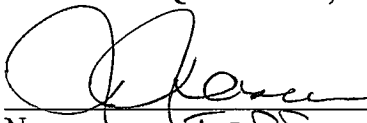
Bruce D. Collins, Purchasing Manager
Department of Financial Services

ASSIGNOR:
TOM GROWNEY EQUIPMENT, INC.



Name: THOMAS D. GROWNEY
Title: PRESIDENT

ASSIGNEE:
4 RIVERS EQUIPMENT, LLC.



Name: JEFFREY JENSEN
Title: CFO



JOHN DEERE

John Deere Worldwide Construction & Forestry
1515 5th Avenue, Moline, IL 61266 U.S.A.
Phone: 309-765-1868 Fax: 309-748-0123
Cell: 563-508-7891
LittleElliottP@JohnDeere.com

Elliott Little
Manager, Commercial Development

June 26, 2013

City of El Paso
2 Civic Center Plaza
7th Floor
El Paso, TX 79901

To whom it may concern,

Please be advised that, 4 Rivers Equipment is the only authorized dealer in New Mexico and the El Paso area of Texas representing John Deere Construction products.

As such, 4 Rivers Equipment is authorized to sell equipment and parts, and is qualified to provide service on John Deere Construction products. If there are any questions about 4 Rivers Equipment's relationship as an authorized dealer for John Deere Construction & Forestry Company in your area, please feel free to contact me.

Sincerely,

P. Elliott Little
Manager - Commercial Development



FINANCIAL SERVICES
PURCHASING DIVISION

SOLE SOURCE AFFIDAVIT

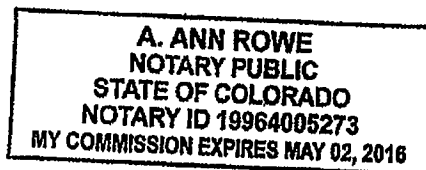
THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared _____, a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is KEITH OLSON. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: 4 Rivers Equipment, LLC
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):
JOHN DEERE
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.

Keith Olson
Signature

SUBSCRIBED AND SWORN to before me on this 26 day of June, 2013.



A Ann Rowe
NOTARY PUBLIC
A. ANN ROWE
PRINTED NAME
5/2/16
MY COMMISSION EXPIRES

COMPANY NAME: 4 Rivers Equipment, LLC
ADDRESS, CITY, STATE & ZIP CODE 11323 ROJAS EL PASO, TEXAS 79937
PHONE: 915-598-1133 FAX NUMBER: 915-598-0479
CONTACT NAME AND TITLE: Thad J. Bennett
WEB ADDRESS: www.4riversequipment.com EMAIL: tbennett@4riversequipment.com
FEDERAL TAX ID NUMBER: 84-1250122 TEXAS SALES TAX NUMBER: 1462768943

MOTION
APRIL 10, 2012

Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to Tom Growney Equipment Inc., the sole source provider and authorized dealer for John Deere Proprietary Parts and Service, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

Department:	General Services
Award to:	Tom Growney Equipment Inc.
	El Paso, TX
Annual Estimated Amount:	\$ 70,000
Total Estimated Award:	\$210,000 (3 years)
Account Nos.:	37370510 – 203121 – 45202
Funding Source:	Internal Service Fund – Inventory Purchases – Materials & Supplies
Sole Source-No.:	2009-185

This is a Sole Source, parts and services contract.

Richarda Duffy Momsen, City Clerk